

## INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 83001(a) through (z)

Specific Purpose/Factual Basis:

These amendments are necessary to repeal the period after each letter "a-" and replace it with parentheses around each letter "(a)" for consistency with other chapters. These amendments are non-substantive and have no regulatory impact.

Section 83001(p)(2) and Handbook

Specific Purpose:

This amendment is necessary to add a definition of "psychotropic medication" to the Small Family Homes regulations chapter (Title 22, Division 6, Chapter 4). The handbook section is provided for reference to Welfare and Institutions Code (WIC) sections 369.5(d) and 739.5(d).

Factual Basis:

This amendment is necessary to introduce a new definition into regulations for "psychotropic medication" to address the implementation of Senate Bill (SB) 238 (Chapter 534, Statutes of 2015), as well as SB 484 (Chapter 540, Statutes of 2015). This definition is necessary to clarify this term whenever used throughout the regulations in this chapter and ensures licensees and caregivers have a clear understanding of what constitutes psychotropic medication.

Section 83064(h) and Handbook

Specific Purpose:

This amendment is necessary to address the additional training requirements specified in WIC section 16501.4(d). This amendment requires licensees to ensure both caregivers and the licensee meet identified initial and ongoing training requirements for psychotropic medications and to ensure the health and safety of children. The handbook section is provided for reference to WIC section 16501.4(d).

Factual Basis:

This amendment is necessary to clarify the additional training requirements for caregivers and the licensee required by WIC section 16501.4(d). WIC section

16501.4(d) requires county child welfare workers, probation officers, children's attorneys and all other relevant staff who engage closely with children under the jurisdiction of the juvenile court to receive training on psychotropic medication. These entities may utilize the training developed by the California Department of Social Services (CDSS) specific to the authorization, uses, risks, benefits, assistance with self-administration, oversight and monitoring of psychotropic medications. Additionally, the training shall cover related topics such as trauma, substance use disorder and mental health treatments, including how to access those treatments. It is necessary for the caregiver, who will be administering the medication, to receive this training but also the licensee who has direct oversight of the caregivers.

Section 83068.1(b)(2)(A)

Specific Purpose:

This amendment is necessary to require licensees to obtain proper authorization and documentation in the child's record for the use of psychotropic medication upon placement as specified in section 83070(b)(11).

Factual Basis:

This amendment is necessary to cross reference the responsibilities licensees have upon placement for children and authorization requirements when a child is taking a psychotropic medication, as specified in section 83070(b)(11).

Psychotropic medications can affect the central nervous system of a child which makes it imperative the licensee and caregivers are informed of the child's medication needs upon placement. A child prescribed psychotropic medication has strict guidelines on daily dosages and missing one dosage could put them at serious risk for harm. This information will ensure the child's health and safety are prioritized in their placement decision.

Section 83070(b)

Specific Purpose:

This amendment is necessary to specify parameters around the records a licensee must keep for each child in their home. The additional parameters indicate licensees must maintain the most recent documents in a separate record or file for each child in the home.

Factual Basis:

This amendment is intended to provide clear instructions for licensees that they must maintain separate and complete files for each child in their home. These files must contain the most up to date information for each child. The previous language did not specify the children's files must be kept separate which could lead to

mismanagement of documentation. In the worst cases, a child's health and safety could be at risk if the licensee does not know the child's medical needs, including but not limited to, if they are taking psychotropic medication. In addition, the child may be at risk when other caregivers are present and do not have the ability to check the child's records for proper directions or the information they find is incorrect.

#### Section 83070(b)(11)

##### Specific Purpose:

This amendment is necessary to require licensees to obtain proper authorization in the child's record for each psychotropic medication the child is taking while in the home. This can be satisfied by having a copy of the current court order or written authorization from their parent or guardian for each psychotropic medication prescribed.

##### Factual Basis:

This amendment is necessary to clarify the responsibilities in which licensees must obtain proper authorization and documentation when a child is taking a psychotropic medication.

Psychotropic medications can affect the central nervous system of a child which makes it imperative the licensee is informed of the child's medication needs upon placement. A child prescribed psychotropic medication has strict guidelines on daily dosages and missing one dosage could put them at serious risk for harm. This information will ensure the child's health and safety are prioritized in their while in out of home care.

#### Section 83070(b)(11)(A)

##### Specific Purpose:

This amendment is necessary to require licensees to obtain written authorization of the child's parent or guardian if the child is not a dependent of the court, or it is documented in the child's record the county placing agency already verified a court order is not needed.

##### Factual Basis:

This amendment is necessary to provide licensees guidelines on when an authorization of the parent or guardian can be used in lieu of a court order. A parent or guardian may, in some circumstances, retain rights to authorize their children to take psychotropic medication as specified in WIC sections 369.5(a) and 739.5(a). It is important for licensees to have the ability to distinguish, when a child is in their care, if they need to request a court order or a written authorization from the parent or guardian. A child's health and safety are at risk if the licensee is

waiting for a court order, when the licensee does not need a court order but a written authorization of the parent or guardian. In another scenario, a child may be taking a prescribed psychotropic medication with the court having no knowledge if the licensee only obtained the written authorization of the parent and did not verify with the county placing agency a court order was not needed. The Community Care Licensing Division uses its broad authority to define these parameters.

#### Section 83070(b)(11)(B)

##### Specific Purpose:

This amendment is necessary to specify when a licensee must obtain written authorization from a Public Health Nurse or the county placing agency for a child in their home to take psychotropic medication for purposes other than outlined in WIC sections 369.5(d) and 739.5(d).

##### Factual Basis:

This amendment is necessary to provide licensees guidelines on authorization requirements when a child is prescribed a psychotropic medication for uses other than described in WIC sections 369.5(d) and 739.5(d). A child may be prescribed a temporary psychotropic medication for a behavior related to trauma, such as bed wetting, which does not require a court order, but the licensee must have written authorization from the child's Public Health Nurse or county placing agency stating it was verified to not be required. This is important to distinguish because a child may need a prescription that is time sensitive for a health issue and not a prescription to treat a psychiatric disorder or illness.

#### Section 83070(b)(11)(C)

##### Specific Purpose:

This amendment is necessary to specify the only time a court order or parental authorization requirement does not apply is in an emergency, as outlined in California Rules of Court, rule 5.640.

##### Factual Basis:

This amendment is necessary to provide licensees guidelines on documentation requirements when a child is prescribed psychotropic medication in an emergency. California Rules of Court, rule 5.640 states psychotropic medication may be administered without a court authorization in an emergency, specifically (A) a physician finds the child requires psychotropic medication to treat a psychiatric disorder or illness; (B) the purpose of the medication is to protect the life of the child and others, to prevent serious harm to the child or others, or to treat current or imminent substantial suffering; (C) it is impractical to obtain an authorization from the court before administering the psychotropic medication. The licensee must

seek court order or parental authorization within two court days following the emergency administration of the psychotropic medication.

Section 83070(b)(12)

Specific Purpose:

This amendment is necessary to further require the licensee, in addition to court order or written authorization, to maintain individual documentation for each prescribed psychotropic medication for children in the home.

Factual Basis:

This amendment is necessary to further define the responsibilities licensees hold in accordance with psychotropic medication and children in their care. The separate log will assist in medication management for the child and caregivers. It is important for the caregiver to have prescription medication records separated due to the wealth of information contained in those logs. The retention of these records for children in their care fulfill requirements as defined in WIC sections 369.5 and 739.5.

Sections 83070(b)(12)(A) through (b)(12)(F)

Specific Purpose:

These amendments are necessary to establish a specific list of information which licensees must obtain and maintain to provide accurate medication management of prescribed psychotropic medication for children in their care.

Factual Basis:

These amendments are necessary to be consistent with HSC section 1507.6 and require licensees to obtain and maintain specific information to ensure psychotropic medications are being administered in accordance with the written directions of the prescribing physician and, when applicable, as authorized by the juvenile court pursuant to WIC sections 369.5 or 739.5.

This new documentation requirement provides increased accountability of the usage of psychotropic medications within Small Family Homes via recordkeeping. The identified documentation requirements enable licensees to accurately communicate with caregivers surrounding the administration of psychotropic medication to children in their home. The requirements include the licensee or caregiver to write the date and time each dose was taken by a child. This level of reporting will ensure the health and safety of each child in their home by monitoring the stability of their medication usage.

Sections 83070(b)(12)(G) through (b)(12)(G)1.

Specific Purpose:

These amendments are adopted to add increased measures of accountability among licensees and caregivers regarding documentation of medication refusals from children in the home.

Factual Basis:

Psychotropic medications affect the central nervous system of the individual taking them and it is important to monitor the daily usage of these medications. A child should not miss a single dose of their prescribed medication but if they do it is imperative to know the reason why they refused. This requirement enables the licensee and caregiver to understand the child's experience for refusing the medication. The child may report they are refusing to take medications due to negative side effects. It is not a benefit to a child to continue ingesting medication that does not serve their specific needs. Additionally, the requirements to document observed results ensures the licensee or caregiver has the pertinent information to provide to the prescribing physician. The licensee or caregiver must report who they contacted following the medication refusal. This regulation provides a deeper level of accountability amongst the licensee and caregiver by requiring them to identify who they notified because of the refusal. The intention behind this regulation is to ensure licensees and caregivers are communicating with the prescribing physician the missed dosages.

Section 83070(b)(12)(H) through (b)(12)(H)1.

Specific Purpose:

These amendments are necessary to further add increased measures of accountability among licensees and caregivers regarding the supervision of self-administered psychotropic medication of children in their care.

Factual Basis:

The passage of SB 484 required annual inspections of group homes and short-term residential therapeutic programs which enabled CDSS to identify gaps in program oversight. An identified gap in recordkeeping included the lack of required documentation amongst licensees and caregivers surrounding the administration of psychotropic medication. These amendments ensure licensees and caregivers are documenting when they observe and/or assist with self-administered psychotropic medication for children in the home. The addition of this regulation incorporates the provision the licensee or caregiver must initial for each observed self-administration of medication. To further ensure licensees and caregivers are not mishandling medication logs, it dictates that the licensees or caregiver's initials shall not be pre-filled on the log.

#### Section 83072.1(a)

##### Specific Purpose:

This amendment is necessary to repeal a cross reference to a regulation section that is not applicable to Children's Residential Programs.

##### Factual Basis:

This amendment is necessary to repeal a cross reference to a section that no longer applies. Currently the cross-referenced regulation states, "(a) Except for children's residential facilities, each client shall have...". Therefore, it is incorrect to reference it here, a regulation for a children's residential facility.

#### Section 83072.1(b)

##### Specific Purpose:

This amendment is necessary to explicitly state a licensee or caregiver shall not discipline a child because of the child refusing to take any medication. By adopting this regulation, the health and safety of children will be prioritized along with any other person residing in the home.

##### Factual Basis:

The passage of SB 238 advocates for foster children to have an active role in the medical treatment they receive while in care. Regulations such as this enable a foster child to safely decline a prescribed psychotropic medication under the supervision of a medical professional. To ensure no child feels intimidated or threatened in exercising these rights, CDSS used its broad authority to adopt this amendment. This amendment is necessary to prohibit licensees or caregivers from taking disciplinary action against a child in the home for purposes of medication refusal. In addition, this amendment is necessary to align with the personal rights of children as specified in WIC section 16001.9 and in this chapter's regulation section 83072.

#### Section 83072.1(b)(1)

##### Specific Purpose:

This amendment is necessary to provide licensees and caregivers further guidance on how to respond when a child refuses to take any medication. The licensee or caregiver must document, as specified in section 83070(b)(12)(G)1., the details of the refusal and response. Additionally, this regulation requires the licensee or caregiver to contact the prescribing physician within two calendar days of the refusal. This level of requirements will ensure there is monitoring of the children's stability on a psychotropic medication and adjust the child's treatment plans as necessary.

#### Factual Basis:

This amendment is necessary to ensure licensees and caregivers document and maintain a record of every instance in which a child refuses to take their medication. These records will be used when discussing medication management and possible changes with the prescribing doctor. Similarly, this amendment is necessary to specify what information should be documented when an instance of a medication refusal occurs. In addition, it clarifies misinterpretation regarding a licensee or caregiver disciplining a child for a medication refusal versus taking reasonable action when a child has missed a regular medication dose.

This requirement enables the licensee and caregiver to understand the child's experience for refusing the medication. The child may report they are refusing to take medications due to negative side effects. It is not a benefit to a child to continue ingesting medication that does not serve their specific needs. Additionally, the requirements to document observed results ensures the licensee or caregiver has the pertinent information to provide to the prescribing physician. The licensee or caregiver must report who they contacted following the medication refusal. This regulation provides a deeper level of accountability amongst the licensee and caregiver by requiring them to identify who they notified following the refusal. The intention behind this regulation is to ensure licensees and caregivers are communicating with the prescribing physician the missed dosages.

#### Section 83072.1(b)(2)

#### Specific Purpose:

This amendment is necessary to make clear no regulation requires a licensee or caregiver to take an action that would impair the health and safety of children in care and to use the reasonable and prudent parent standard in determining the suitability of a specific activity for a child when they choose to not take their medication as prescribed.

#### Factual Basis:

This amendment is necessary to clarify these regulations are not in conflict with the licensee's or caregiver's use of reasonable and prudent parent standards, as specified in WIC section 362.05, to ensure the health and safety of children in out of home care. This amendment supports the licensee or caregiver to exercise appropriate judgment in discerning how to best proceed with a child's medication refusal.



## Section 83075(g) and Handbook

### Specific Purpose:

This amendment is necessary to specify that psychotropic medications administered to children in the home, shall be used only in accordance with the written directions of the prescribing physician as defined in WIC sections 369.5 and 739.5. Additionally, the licensee or caregiver must have proper authorization as outlined in section 83070(b)(11). The handbook section is provided for reference to WIC sections 369.5 and 739.5.

### Factual Basis:

This amendment is necessary to be consistent with Health and Safety Code (HSC) section 1507.6 requirements regarding mental health services for children in care. The licensee or caregiver must ensure the children in their care have access to medical treatment. This regulation will ensure the licensees and caregivers understand their role in assisting children in their home with a psychotropic medication treatment plan, in accordance with WIC sections 369.5(a)(1) and 739.5(a)(1).

## Section 83075(g)(1) and Handbook

### Specific Purpose:

This amendment is necessary to specify that a court order or parental authorization is not required when a child is prescribed psychotropic medication to treat a health-related issue in an emergency, as outlined in California Rules of Court, rule 5.640. The handbook section is provided for reference to WIC sections 369.5(a)(1) and 739.5(a)(1) and California Rules of Court, rule 5.640.

### Factual Basis:

This amendment is necessary to provide licensees and caregivers guidelines on documentation requirements when a child is prescribed psychotropic medication in an emergency. California Rules of Court, rule 5.640 states psychotropic medication may be administered without a court authorization in an emergency, specifically (A) a physician finds the child requires psychotropic medication to treat a psychiatric disorder or illness; (B) the purpose of the medication is to protect the life of the child and others, to prevent serious harm to the child or others, or to treat current or imminent substantial suffering; (C) it is impractical to obtain an authorization from the court before administering the psychotropic medication. The licensee or caregiver must seek court order or parental authorization within two court days following the emergency administration of the psychotropic medication.

#### Section 83075(h)

##### Specific Purpose:

This amendment is necessary to specify the procedures for responding to a child refusing to take their medication shall be the same as those specified in section 83070(b)(12)(G)1.

##### Factual Basis:

This amendment is necessary to provide a cross-reference to the section, within this same chapter, that addresses the procedures for responding to a child that refuses to take their medication.

#### Section 84001(p)(4) and Handbook

##### Specific Purpose:

This amendment is necessary to add a definition of "psychotropic medication" to the Group Homes regulations chapter (Title 22, Division 6, Chapter 5). The handbook section is provided for reference to WIC sections 369.5(d) and 739.5(d).

##### Factual Basis:

This amendment is necessary to introduce a new definition into regulations for "psychotropic medication" to address the implementation of Senate Bill (SB) 238 (Chapter 534, Statutes of 2015), as well as SB 484 (Chapter 540, Statutes of 2015). This definition is necessary to clarify this term whenever used throughout the regulations in this chapter and ensures providers have a clear understanding of what constitutes psychotropic medication.

#### Section 84044(b) and Handbook

##### Specific Purpose:

This amendment is necessary to specify the licensing agency, California Department of Social Services (CDSS), shall have inspection authority as specified in HSC section 1538.9. The handbook section is provided for reference to HSC section 1538.9.

##### Factual Basis:

The passage of SB 484 proposed further regulations surrounding foster children and their psychotropic medication treatment plans. The statute expands CDSS authority and requires an additional annual inspection of group homes and short-term therapeutic programs that warrant further review.

#### Section 84065(i)(3)(M)

##### Specific Purpose:

This amendment is necessary to broaden the scope of initial training on medication for child care staff to include psychotropic medication as specified in WIC section 16501.4(d). This amendment requires licensees to ensure new child care staff meet these additional topic requirements within their initial twenty-four (24) hour training upon hire.

##### Factual Basis:

This amendment is necessary to include psychotropic medication as a topic in new child care staff training, as specified in WIC section 16501.4(d). CDSS is required to develop and make accessible training requirements about psychotropic medication that may be chosen to satisfy the additional provisions.

#### Section 84065(j)(4)(A) and Handbook

##### Specific Purpose:

This amendment is necessary to require training on psychotropic medication to be incorporated into child care staff annual training, as specified in WIC section 16501.4(d). This amendment requires licensees to integrate psychotropic medication training into child care staff twenty (20) hour annual training. The handbook section is provided for reference to WIC section 16501.4(d).

##### Factual Basis:

This amendment is necessary to integrate psychotropic medication training, as specified in WIC section 16501.4(d), into the annual training requirements for child care staff. Although the child care staff will receive psychotropic medication information in their initial training, the topic is so extensive and used so frequently it is important child care staff continue to stay informed. This addition to the regulation will ensure child care staff stay up to date with the latest advancements with psychotropic medication including but not limited to the use of medications, types of treatment and availability of resources.

#### Section 84068.1(b)(4)(C)1.

##### Specific Purpose:

This amendment is necessary to require licensees to obtain proper authorization and documentation in the child's record for the use of psychotropic medication upon placement as specified in section 84070(b)(12).

Factual Basis:

This amendment is necessary to cross reference the responsibilities licensees have to obtain proper authorization when a child is taking a psychotropic medication upon placement, as specified in section 84070(b)(12). Psychotropic medications can affect the central nervous system of a child which makes it imperative the licensee is informed of the child's medication needs upon placement. A child prescribed psychotropic medication has strict guidelines on daily dosages and missing one dosage could put them at serious risk for harm. This information will ensure the child's health and safety are prioritized in their placement decision.

Section 84070(b)(12)

Specific Purpose:

This amendment is necessary to require licensees to obtain proper authorization in the child's record for each psychotropic medication the child is taking while in the facility. This can be satisfied by having a copy of the current court order or written authorization from their parent or guardian for each psychotropic medication prescribed.

Factual Basis:

This amendment is necessary to clarify the responsibilities in which licensees must obtain proper authorization when a child is taking a psychotropic medication. Psychotropic medications can affect the central nervous system of a child which makes it imperative the licensee or designated person is informed of the child's medication needs upon placement. A child prescribed psychotropic medication has strict guidelines on daily dosages and missing one dosage could put them at serious risk for harm. This information will ensure the child's health and safety are prioritized while in out of home care.

Section 84070(b)(12)(A)

Specific Purpose:

This amendment is necessary to specify how a licensee can satisfy the written authorization of the parent or guardian in lieu of a court order for a child, if the child is not a dependent or ward of the court or the county placing agency verified a court order is not required.

Factual Basis:

This amendment is necessary to provide licensees guidelines when a written authorization of the parent or guardian can be used in lieu of a court order. A parent or guardian may, in some circumstances, retain rights to authorize their children to take psychotropic medication as specified in WIC sections 369.5(a) and 739.5(a). It is important for licensees to have the ability to distinguish when a child

is in their care if they need to request a court order or a written authorization from the parent or guardian. A child's health and safety are at risk if the licensee is waiting for a court order, when the licensee does not need a court order but a written authorization of the parent or guardian. In another scenario, a child may be taking a prescribed psychotropic medication with the court having no knowledge if the licensee only obtained the written authorization of the parent and did not verify with the county placing agency a court order was not needed. The Community Care Licensing Division uses its broad authority to define these parameters.

#### Section 84070(b)(12)(B)

##### Specific Purpose:

This amendment is necessary to specify when a licensee must obtain written authorization from a Public Health Nurse or the county placing agency for a child in their facility to take psychotropic medication for purposes other than outlined in WIC sections 369.5(d) and 739.5(d).

##### Factual Basis:

This amendment is necessary to provide licensees guidelines on authorization requirements when a child is prescribed a psychotropic medication for uses other than described in WIC sections 369.5(d) and 739.5(d). A child may be prescribed a temporary psychotropic medication for a behavior related to trauma, such as bed wetting, which does not require a court order, but the licensee must have written authorization from the child's Public Health Nurse or county placing agency stating it was verified to not be required. This is important to distinguish because a child may need a prescription that is time sensitive for a health issue and not a prescription to treat a psychiatric disorder or illness.

#### Section 84070(b)(12)(C)

##### Specific Purpose:

This amendment is necessary to specify the only time a court order or written parental authorization requirement does not apply is in an emergency, as outlined in California Rules of Court, rule 5.640.

##### Factual Basis:

This amendment is necessary to provide licensees guidelines on documentation requirements when a child is prescribed psychotropic medication in an emergency. California Rules of Court, rule 5.640 states psychotropic medication may be administered without a court authorization in an emergency, specifically (A) a physician finds the child requires psychotropic medication to treat a psychiatric disorder or illness; (B) the purpose of the medication is to protect the life of the child and others, to prevent serious harm to the child or others, or to treat current or imminent substantial suffering; (C) it is impractical to obtain an authorization from

the court before administering the psychotropic medication. The licensee must seek court order or parental authorization within two court days following the emergency administration of the psychotropic medication.

Sections 84070(b)(13)

Specific Purpose:

This amendment is necessary to further require the licensee, in addition to court order or written authorization, to maintain individual documentation for each prescribed psychotropic medication for children in the facility.

Factual Basis:

This amendment is necessary to further define the responsibilities licensees hold in accordance with psychotropic medication and children in their care. The separate log will assist in medication management for the child and staff. It is important for the child care staff to have prescription medication records separated due to the wealth of information contained in those logs. The retention of these records for children in their care fulfill requirements as defined in WIC sections 369.5 and 739.5.

Sections 84070(b)(13)(A) through (b)(13)(F)

Specific Purpose:

These amendments are necessary to establish a specific list of information which licensees must obtain and maintain to provide accurate medication management of prescribed psychotropic medication for children in their care.

Factual Basis:

This new documentation requirement provides increased accountability of the usage of psychotropic medications within Group Homes via recordkeeping. The identified documentation requirements enable licensees and child care staff to accurately communicate with each other surrounding the administration of psychotropic medication to children in their care. The requirements include the child care staff to write the date and time each dose was taken by a child. This level of reporting will ensure the health and safety of each child in their home by monitoring the stability of their medication usage.

Section 84070(b)(13)(G) through (b)(13)(G)1.

Specific Purpose:

These amendments are necessary to add increased measures of accountability among licensees and child care staff regarding documentation of medication refusals from children in their care.

Factual Basis:

This requirement enables the licensee and child care staff to understand the child's experience for refusing the medication. The child may report they are refusing to take medications due to negative side effects. It is not a benefit to a child to continue ingesting medication that does not serve their specific needs. Additionally, the requirements to document observed results ensures the licensee or child care staff has the pertinent information to provide to the prescribing physician. The licensee or child care staff must report who they contacted following the medication refusal. This provision provides a deeper level of accountability amongst the licensee and child care staff by requiring them to identify who they notified because of the refusal. The intention behind this provision is to ensure licensees and child care staff are communicating with the prescribing physician the missed dosages.

Section 84070(b)(13)(H) through (b)(13)(H)1.

Specific Purpose:

These amendments are necessary to further add increased measures of accountability among licensees and child care staff regarding the supervision of self-administered psychotropic medication of children in their care.

Factual Basis:

The passage of SB 484 required annual inspections of group homes and short-term residential therapeutic programs which enabled CDSS to identify gaps in program oversight. An identified gap in recordkeeping included the lack of required documentation amongst licensees and child care staff surrounding the administration of psychotropic medication. These amendments ensure licensees and child care staff are documenting when they observe and/or assist with self-administered psychotropic medication for children in the home. The addition of this regulation incorporates the provision the licensee or child care staff must initial for each observed self-administration of medication. To further ensure child care staff are not mishandling medication logs, it dictates that the child care staff's initials shall not be pre-filled on the log. These sections provide consistency across requirements as specified in HSC section 1507.6 and WIC sections 369.5 and 739.5.

Section 84072.1(e)

Specific Purpose:

This amendment is necessary to explicitly state a licensee or child care staff shall not discipline a child because of the child refusing to take any medication. By amending this regulation, the health and safety of children will be prioritized along with any other person residing in the facility.

### Factual Basis:

The passage of SB 238 advocates for foster children to have an active role in the medical treatment they receive while in care. Regulations such as this enable a foster child to safely decline a prescribed psychotropic medication under the supervision of a medical professional. To ensure no child feels intimidated or threatened in exercising these rights, CDSS used its broad authority to adopt this amendment. This amendment is necessary to prohibit licensees or child care staff from taking disciplinary action against a child in their facility for purposes of medication refusal. In addition, this amendment is necessary to align with the personal rights of children as specified in WIC section 16001.9 and in this chapter's regulation section 83072.

### Section 84072.1(e)(1)

### Specific Purpose:

This amendment is necessary to provide licensees and child care staff further guidance on how to respond when a child refuses to take any medication. The licensee or child care staff must document, as specified in section 83070(b)(12)(G)1., the details of the refusal and response. Additionally, this regulation requires the licensee or child care staff to contact the prescribing physician within two calendar days of the refusal. This level of requirements will ensure there is monitoring of the children's stability on a psychotropic medication and adjust the child's treatment plans as necessary.

### Factual Basis:

This amendment is necessary to ensure licensees and child care staff document and maintain a record of every instance in which a child refuses to take their medication. These records will be used when discussing medication management and possible changes with the prescribing doctor. Similarly, this amendment is necessary to specify what information should be documented when an instance of a medication refusal occurs. In addition, it clarifies misinterpretation regarding a licensee or child care staff disciplining a child for a medication refusal versus taking reasonable action when a child has missed a regular medication dose. This requirement enables the licensee and child care staff to understand the child's experience for refusing the medication. The child may report they are refusing to take medications due to negative side effects. It is not a benefit to a child to continue ingesting medication that does not serve their specific needs. Additionally, the requirements to document observed results ensures the licensee or child care staff has the pertinent information to provide to the prescribing physician. The licensee or child care staff must report who they contacted following the medication refusal. This regulation provides a deeper level of accountability amongst the licensee and child care staff by requiring them to identify who they notified following the refusal. The intention behind this regulation is to ensure



licensees and child care staff are communicating with the prescribing physician the missed dosages.

Section 84072.1(e)(2)

Specific Purpose:

This amendment is necessary to make clear no regulation requires a licensee or child care staff to take an action that would impair the health and safety of children in care and to use the reasonable and prudent parent standard in determining the suitability of a specific activity for a child when they choose to not take their medication as prescribed.

Factual Basis:

This amendment is necessary to clarify these regulations are not in conflict with the licensee's or staff's ability to use reasonable and prudent parent standards, as specified in WIC section 362.05, to ensure the health and safety of children in out-of-home placement. This amendment supports the licensee or staff to exercise appropriate judgment in discerning how to best proceed with a child's medication refusal. Additionally, this creates consistency with the personal rights of children in care as specified in section 84072 and WIC section 16001.9.

Section 84075(c) and Handbook

Specific Purpose:

This amendment is necessary to specify that psychotropic medications administered to children in the facility, shall be used only in accordance with the written directions of the prescribing physician as defined in WIC sections 369.5 and 739.5. Additionally, the licensee or child care staff must have proper documentation as outlined in section 84070(b)(12). The handbook section is provided for reference to WIC sections 369.5 and 739.5.

Factual Basis:

This amendment is necessary to be consistent with HSC section 1507.6 requirements regarding mental health services for children in care. The licensee or child care staff must ensure the children in their care have access to medical treatment. This provision will ensure the licensees and child care staff understand their role in assisting children in their home with a psychotropic medication treatment plan, in accordance with WIC sections 369.5(a)(1) and 739.5(a)(1).

#### Section 84075(c)(1) and Handbook

##### Specific Purpose:

This amendment is necessary to specify that a court order or parental authorization is not required when a child is prescribed psychotropic medication to treat a health-related issue in an emergency, as outlined in California Rules of Court, rule 5.640. The handbook section is provided for reference to WIC sections 369.5(a)(1) and 739.5(a)(1) and California Rules of Court, rule 5.640.

##### Factual Basis:

This amendment is necessary to provide licensees guidelines on documentation requirements when a child is prescribed psychotropic medication in an emergency. California Rules of Court, rule 5.640 states psychotropic medication may be administered without a court authorization in an emergency, specifically (A) a physician finds the child requires psychotropic medication to treat a psychiatric disorder or illness; (B) the purpose of the medication is to protect the life of the child and others, to prevent serious harm to the child or others, or to treat current or imminent substantial suffering; (C) it is impractical to obtain an authorization from the court before administering the psychotropic medication. The licensee must seek court order or parental authorization within two court days following the emergency administration of the psychotropic medication.

#### Section 84075(d)

##### Specific Purpose:

This amendment is necessary to specify the procedures for responding to a child refusing to take their prescribed medication shall be the same as specified in section 84070(b)(13)(G)1.

##### Factual Basis:

This amendment is necessary to provide a cross-reference to the section, within this same chapter, that addresses the procedures for responding to a child that refuses to take their prescribed medication.

#### Section 89201(p)(9) and Handbook

##### Specific Purpose:

This amendment is necessary to add a definition of "psychotropic medication" to the Foster Family Homes regulations chapter (Title 22, Division 6, Chapter 9.5). The handbook section is provided for reference to WIC sections 369.5 and 739.5.

Factual Basis:

This amendment is necessary to introduce a new definition into regulations for "psychotropic medication" to address the implementation of Senate Bill (SB) 238 (Chapter 534, Statutes of 2015), as well as SB 484 (Chapter 540, Statutes of 2015). This definition is necessary to clarify this term whenever used throughout the regulations in this chapter and ensures providers have a clear understanding of what constitutes psychotropic medication.

Section 89370(a)(7)

Specific Purpose:

This amendment is necessary to require caregivers to obtain proper authorization in the child's record for each psychotropic medication the child is taking while in the home. This can be satisfied by having a copy of the current court order or written authorization from their parent or guardian for each psychotropic medication prescribed.

Factual Basis:

This amendment is necessary to clarify the responsibilities in which caregivers must obtain proper authorization and documentation when a child is taking a psychotropic medication. Psychotropic medications can affect the central nervous system of a child which makes it imperative the caregiver is informed of the child's medication needs upon placement. A child prescribed psychotropic medication has strict guidelines on daily dosages and missing one dosage could put them at serious risk for harm. This information will ensure the child's health and safety are prioritized in their out of home care.

Section 89370(a)(7)(A)

Specific Purpose:

This amendment is necessary to specify how a caregiver can satisfy the written authorization of the parent or guardian in lieu of a court order for a child, if the child is not a dependent or ward of the court or the county placing agency verified a court order is not required.

Factual Basis:

This amendment is necessary to provide caregivers guidelines when a written authorization of the parent or guardian can be used in lieu of a court order. A parent or guardian may, in some circumstances, retain rights to authorize their children to take psychotropic medication as specified in WIC sections 369.5(a) and 739.5(a). It is important for caregivers to have the ability to distinguish, when a child is in their care, if they need to request a court order or a written authorization from the parent or guardian. A child's health and safety are at risk if the caregiver

is waiting for a court order, when the caregiver does not need a court order but a written authorization of the parent or guardian. In another scenario, a child may be taking a prescribed psychotropic medication with the court having no knowledge if the caregiver only obtained the written authorization of the parent and did not verify with the county placing agency a court order was not needed.

#### Section 89370(a)(7)(B)

##### Specific Purpose:

This amendment is necessary to specify when a caregiver must obtain written authorization from a Public Health Nurse or the county placing agency for a child in their home to take psychotropic medication for purposes other than outlined in WIC sections 369.5(d) and 739.5(d).

##### Factual Basis:

This amendment is necessary to provide caregivers guidelines on authorization requirements when a child is prescribed a psychotropic medication for uses other than described in WIC sections 369.5(d) and 739.5(d). A child may be prescribed a temporary psychotropic medication for a behavior related to trauma, such as bed wetting, which does not require a court order, but the caregiver must have written authorization from the child's Public Health Nurse or county placing agency stating it was verified to not be required. This is important to distinguish because a child may need a prescription that is time sensitive for a health issue and not a prescription to treat a psychiatric disorder or illness.

#### Section 89370(a)(7)(C)

##### Specific Purpose:

This amendment is necessary to specify the only time a court order or written parental authorization requirement does not apply is in an emergency, as outlined in California Rules of Court, rule 5.640.

##### Factual Basis:

This amendment is necessary to provide caregivers guidelines on documentation requirements when a child is prescribed psychotropic medication in an emergency. California Rules of Court, rule 5.640 states psychotropic medication may be administered without a court authorization in an emergency, specifically (A) a physician finds the child requires psychotropic medication to treat a psychiatric disorder or illness; (B) the purpose of the medication is to protect the life of the child and others, to prevent serious harm to the child or others, or to treat current or imminent substantial suffering; (C) it is impractical to obtain an authorization from the court before administering the psychotropic medication. The caregiver must seek court order or written parental authorization within two court days following the emergency administration of the psychotropic medication.

Sections 89370(a)(8)

Specific Purpose:

This amendment is necessary to further require the caregiver, in addition to court order or written authorization, to maintain individual documentation for each prescribed psychotropic medication for children in the home.

Factual Basis:

This amendment is necessary to further define the responsibilities caregivers hold in accordance with psychotropic medication and children in their home. The separate log will assist in medication management for the child and caregivers. It is important for the child care staff to have prescription medication records separated due to the wealth of information contained in those logs. The retention of these records for children in their home fulfill requirements as defined in WIC sections 369.5 and 739.5.

Sections 89370(a)(8)(A) through (a)(8)(F)

Specific Purpose:

These amendments are necessary to establish a specific list of information which caregivers must obtain and maintain to provide accurate medication management of prescribed psychotropic medication for children in their home.

Factual Basis:

This new documentation requirement provides increased accountability of the usage of psychotropic medications within Foster Family Homes (FFH) via recordkeeping. The identified documentation requirements enable caregivers to accurately communicate with each other surrounding the administration of psychotropic medication to children in the home. The requirements include the caregivers to write the date and time each dose was taken by a child. This level of reporting will ensure the health and safety of each child in the home by monitoring the stability of the child's medication usage.

Section 89370(a)(8)(G) through (a)(8)(G)1.

Specific Purpose:

These amendments are necessary to add increased measures of accountability among caregivers regarding documentation of medication refusals from children in the home.

Factual Basis:

This requirement enables the caregiver to understand the child's experience for refusing the medication. The child may report they are refusing to take medications due to negative side effects. It is not a benefit to a child to continue ingesting medication that does not serve their specific needs. Additionally, the requirements to document observed results ensures the caregiver has the pertinent information to provide to the prescribing physician. The caregiver must report who they contacted following the medication refusal. This regulation provides a deeper level of accountability amongst the caregiver by requiring them to identify who they notified because of the refusal. The intention behind this regulation is to ensure caregivers are communicating with the prescribing physician the missed dosages.

Section 89370(a)(8)(H) through (a)(8)(H)1.

Specific Purpose:

These amendments are necessary to further add increased measures of accountability among caregivers regarding the supervision of self-administered psychotropic medication of children in their care.

Factual Basis:

The passage of SB 484 required annual inspections of group homes and short-term residential therapeutic programs which enabled CDSS to identify gaps in program oversight. An identified gap in recordkeeping included the lack of required documentation amongst licensees and child care staff surrounding the administration of psychotropic medication. These amendments ensure caregivers are documenting when they observe and/or assist with self-administered psychotropic medication for children in the home. The addition of this regulation incorporates the provision the caregiver must initial for each observed self-administration of medication. To further ensure caregivers are not mishandling medication logs, it dictates that the caregiver initials shall not be pre-filled on the log. These amendments provide consistency across requirements as specified in HSC section 1507.6 and WIC sections 369.5 and 739.5.

Section 89405(a)(1)(L) and Handbook

Specific Purpose:

This amendment is necessary to address the additional training requirements specified in WIC section 16501.4(d). This amendment ensures caregivers meet identified training requirements for psychotropic medications and for the health and safety of children. The handbook section is provided for reference to WIC section 16501.4(d).

Factual Basis:

This amendment is necessary to clarify the additional training requirements for caregivers as required by WIC section 16501.4(d). WIC section 16501.4(d) requires county child welfare workers, probation officers, children's attorneys and all other relevant staff who engage closely with children under the jurisdiction of the juvenile court to receive training on psychotropic medication. These entities may utilize the training developed by CDSS specific to the authorization, uses, risks, benefits, assistance with self-administration, oversight and monitoring of psychotropic medications. Additionally, the training shall cover related topics such as trauma, substance use disorder and mental health treatments, including how to access those treatments.

Section 89468(b)

Specific Purpose:

This amendment is necessary to repeal sections 89468(b)(1) through (10) and inform the caregiver they may use LIC 9225 Pre-Placement Questionnaire as a method to obtain the information regarding the children's prescription.

Factual Basis:

This amendment is necessary to provide caregivers a template to obtain all necessary information regarding a child in their care and their prescribed psychotropic medication as specified in LIC 9225 Pre-Placement Questionnaire. A caregiver may not receive a Health and Education passport for a child placed in their home, regardless, they are obligated to obtain specific information from the placement social worker. The caregiver can obtain the information in any written format they prefer but to further assist the caregiver in obtaining this information CDSS has provided a template for reference.

Sections 89468(d) through (d)(1)

Specific Purpose:

These amendments are necessary to require caregivers to use the pre-placement information to identify if a child being placed in their home is taking psychotropic medication. If the caregiver identifies they are taking psychotropic medication, it is the caregiver's responsibility to obtain the proper authorizations as specified in section 89370(a)(7).

Factual Basis:

This amendment is necessary to cross reference the responsibilities caregivers have to obtain proper authorization when a child is taking a psychotropic medication upon placement, as specified in section 89370(a)(7). Psychotropic medications can affect the central nervous system of a child which makes it

imperative the caregiver is informed of the child's medication needs upon placement. A child prescribed psychotropic medication has strict guidelines on dosages and missing one dosage could put them at serious risk for harm. This information will ensure the child's health and safety are prioritized in their placement decision.

Section 89468(e) through (i) (renumbered from 89468(d) through (h))

Specific Purpose/Factual Basis:

These sections are renumbered from 89468(d) through (h) to 89468(e) through (i) respectively, to accommodate the adoption of new section 89468(d). This is a nonsubstantive amendment and has no regulatory impact.

Section 89475(d)

Specific Purpose:

Current regulation is repealed. The new regulation is necessary to specify that psychotropic medications administered to children in the home, shall be used only in accordance with the written directions of the prescribing physician as defined in WIC sections 369.5 and 739.5. The handbook section is provided for reference to WIC sections 369.5 and 739.5.

Factual Basis:

This amendment is necessary to be consistent with HSC section 1507.6 requirements regarding mental health services for children in care. The caregiver must ensure the children in their care have access to medical treatment. This regulation will ensure the caregivers understand their role in assisting children in their home with a psychotropic medication treatment plan, in accordance with WIC sections 369.5(a)(1) and 739.5(a)(1).

Section 89475(d)(1)

Specific Purpose:

This amendment is necessary to specify that a court order or parental authorization is not required when a child is prescribed psychotropic medication to treat a health-related issue in an emergency, as outlined in California Rules of Court, rule 5.640. The handbook section is provided for reference to WIC sections 369.5(a)(1) and 739.5(a)(1) and California Rules of Court, rule 5.640.

Factual Basis:

This amendment is necessary to provide caregivers guidelines on documentation requirements when a child is prescribed psychotropic medication in an emergency. California Rules of Court, rule 5.640 states psychotropic medication may be



administered without a court authorization in an emergency, specifically (A) a physician finds the child requires psychotropic medication to treat a psychiatric disorder or illness; (B) the purpose of the medication is to protect the life of the child and others, to prevent serious harm to the child or others, or to treat current or imminent substantial suffering; (C) it is impractical to obtain an authorization from the court before administering the psychotropic medication. The caregiver must seek court order or parental authorization within two court days following the emergency administration of the psychotropic medication.

#### Section 89475(f)

##### Specific Purpose:

This amendment is necessary to explicitly state a caregiver shall not discipline a child because of the child refusing to take any medication. By amending this regulation, the health and safety of children will be prioritized along with any other person residing in the home.

##### Factual Basis:

The passage of SB 238 advocates for foster children to have an active role in the medical treatment they receive while in care. Regulations such as this enable a foster child to safely decline a prescribed psychotropic medication under the supervision of a medical professional. To ensure no child feels intimidated or threatened in exercising these rights, CDSS used its broad authority to adopt this regulation. This amendment is necessary to prohibit caregivers from taking disciplinary action against a child in the home for purposes of medication refusal. In addition, this amendment is necessary to align with the personal rights of children as specified in WIC section 16001.9 and in this chapter's regulation section 83072.

#### Section 89475(f)(1)

##### Specific Purpose:

This amendment is necessary to provide caregivers further guidance on how to respond when a child refuses to take any medication. The caregiver must document, as specified in section 83070(b)(12)(G)1., the details of the refusal and response. Additionally, this regulation requires the caregiver to contact the prescribing physician within two calendar days of the refusal. This level of requirements will ensure there is monitoring of the children's stability on a psychotropic medication and adjust the child's treatment plans as necessary.

##### Factual Basis:

This amendment is necessary to ensure caregivers document and maintain a record of every instance in which a child refuses to take their medication. These records will be used when discussing medication management and possible

changes with the prescribing doctor. Similarly, this regulation is necessary to specify what information should be documented when an instance of a medication refusal occurs. In addition, it clarifies misinterpretation regarding a caregiver disciplining a child for a medication refusal versus taking reasonable action when a child has missed a regular medication dose. This requirement enables the caregiver to understand the child's experience for refusing the medication. The child may report they are refusing to take medications due to negative side effects. It is not a benefit to a child to continue ingesting medication that does not serve their specific needs. Additionally, the requirements to document observed results ensures the caregiver has the pertinent information to provide to the prescribing physician. The caregiver must report who they contacted following the medication refusal. This regulation provides a deeper level of accountability amongst the caregiver by requiring them to identify who they notified following the refusal. The intention behind this provision is to ensure caregivers are communicating with the prescribing physician the missed dosages.

#### Section 89475(f)(2)

##### Specific Purpose:

This amendment is necessary to make clear no regulation requires a caregiver to take an action that would impair the health and safety of children in care and to use the reasonable and prudent parent standard in determining the suitability of a specific activity for a child when they choose to not take their medication as prescribed.

##### Factual Basis:

This amendment is necessary to clarify these regulations are not in conflict with the caregiver's ability to use reasonable and prudent parent standards, as specified in WIC section 362.05, to ensure the health and safety of children in out of home placement. This amendment supports the caregiver to exercise appropriate judgment in discerning how to best proceed with a child's medication refusal. Additionally, this creates consistency with the personal rights of children in care as specified in section 84072 and WIC section 16001.9.

#### Sections 89475.1(g) and (h) and Handbook

##### Specific Purpose:

The language in section 89475.1(g) has been moved to section 89475(d) and is repealed here, including the pertaining handbook portion. Current section 87475.1(h) is therefore renumbered to 87475.1(g).

##### Factual Basis:

It is necessary to repeal section 89475.1(g) to avoid redundancy. The information provided in this section is already addressed in section 89475(d) of this regulations

package. It has been determined that section 89475(d) is the more appropriate location to provide this information. Due to the repeal of current section 89475.1(g), it is necessary to renumber section 87475.1(h) to 87475.1(g) to maintain the order of this section.

b) Identification of Documents Upon Which Department Is Relying

SB 238 (Chapter 534, Statutes of 2015) (WIC sections 369.5, 739.5 and 16501.4).  
SB 484 (Chapter 540, Statutes of 2015) (HSC sections 1507.6 and 1538.9).

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

d) Statement of Alternatives Considered

CDSS considered alternative solutions for the proposed amendments derived from SB 484 on psychotropic medication. The Department consulted with stakeholders in the development process for these proposed regulations and no reasonable alternatives have been presented. While Health and Safety Code section 1507.6 only applied to group home facilities, CDSS has chosen to use its broad authority to apply these same requirements to include Children's Residential Facilities and Homes serving children. The combined efforts from statutory amendments of SB 484 and SB 238, as well as the efforts of a collaborative taskforce developed by DHCS and CDSS, Quality Improvement Project, ensure that legislation regarding psychotropic medication is revisited on an annual basis. In the future, there will be an abundance of opportunities for new regulations to be proposed that may prove equally as effective in implementing the statutory policy or other provision of law.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Stakeholders were consulted during the development of these proposed regulations and no reasonable alternatives have been presented to CDSS for review.

e) Statement of Significant Adverse Economic Impact On Business

The changes reflected in these regulations codify statutes that have been in effect since January 1, 2016. The CDSS has not received any facts, evidence, documents, testimony or other evidence to indicate there has been any significant, statewide adverse economic impact on business related to these laws. As such, CDSS has made an initial determination that the proposed action will not have a

significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

None of the proposed regulations establish a requirement to a Licensee who operates a small business, such as Group Homes, that entail an investment in new goods or services or substantially alter their daily business activities and licensure requirements. This determination was made since businesses and agencies that currently offer training to Group Home Administrators, Providers, and Caregivers need only add another training topic. This addition need not be significant as the statute does not require a specific amount of time spent on this training topic. The cost of adding instruction on psychotropic medications, management and administration as it relates to best practices for youth in out-of-home care should be absorbable.

f) Economic Impact Assessment

In accordance with Government Code section 11346.3(b), CDSS has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish regulatory measures that are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

The proposed regulations for SB 484 and SB 238 intend to provide parameters for effective management and oversight for use of psychotropic medication so that licensed Children's Residential Facilities and Homes serving children in out of home care may begin to adopt alternative, less invasive, treatment approaches instead of relying on psychotropic medication as the first-line or only treatment.

These regulations implement specific components of SB 484 by requiring facilities and homes to maintain information in the child's records regarding psychotropic medication including a copy of any court order authorizing psychotropic medications and a separate log for each medication, as specified. They also provide that psychotropic medications shall only be used in accordance with the written directions of the prescribing physician and as authorized by the juvenile court.

*Creation or Elimination of Jobs Within the State of California*

The amendment of the proposed regulations does have the potential to create, eliminate, or expand jobs in the State of California. In December of 2015, San Jose Mercury News reported that Santa Clara County is now employing public health nurses dedicated solely to monitor children's psychotropic medication use due to this new legislation.

### *Creation of New or Elimination of Existing Businesses Within the State of California*

The adoption of the proposed regulations will neither result in the creation of new businesses nor elimination of existing businesses in the State of California because it is not necessary for implementation. CDSS' recent Continuum of Care Reform efforts already include elements of these proposed regulations. The justification for this statement is that elimination of businesses such as Group Homes will occur due to CDSS' licensure of Short-Term Residential Therapeutic Programs instead. However, these facility categories require a much higher standard of oversight, treatment and care for foster children who are taking psychotropic medication, and their standards are in alignment with these proposed regulations.

### *Expansion of Businesses Within the State of California*

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California. The justification for this statement is that legislation does not require any expansion of businesses. With regards to training outlets, HSC section 1529.2 offers a sufficient amount of existing resources available for a provider to receive training, such as community colleges, counties, hospitals, foster parent associations, the California State Foster Parent Association's conference, adult schools, and certified foster parent instructors.

### *Benefits of the Regulations*

The benefits of the regulatory action to the health and welfare of California residents are as follows:

- Encourages Children's Residential Facilities and homes to adopt alternative, less invasive, treatment approaches.
- Decreases reliance on psychotropic medication as the first-line or only treatment plan.
- Ensure safer parameters are guiding medication policies for children in foster care.

The state has not identified any benefits to worker safety that these proposed regulations might create.

The benefits of the regulatory action to the state's environment include:

- The proposed regulations are an acknowledgement that oversight of medication use in foster care could use improvement, and these regulations reflect the state's willingness to do so.
- The proposed regulations reflect how the state and the public can work collaboratively in successfully achieving the goal of safer medication practices for children in foster care.

### *Documents Relied Upon*

The documents relied upon in proposing this regulatory action are as follows:

- SB 484 (Chapter 540, Statutes of 2015), (HSC sections 1507.6 and 1538.9).

- SB 238 (Chapter 534, Statutes of 2015), (WIC sections 369.5, 739.5 and 16501.4).
- Mercury News article, (2017) "Santa Clara leads the way in increasing oversight of foster kids on psychiatric drugs."

g) Benefits Anticipated from Regulatory Action

There has been concern at the federal, state, and county levels about the inappropriate or excessive use of psychotropic medications among children placed in group home settings. Children in foster care represent only three percent of children covered by Medicaid. A study of pharmacy claims in 16 states showed that foster children enrolled in Medicaid were prescribed antipsychotic medications at nearly nine times the rate of other children receiving Medicaid. The proposed regulations for SB 484 and SB 238 intend to provide parameters for effective medication management and oversight for use of psychotropic medication so Children's Residential Facilities and homes may begin to adopt alternative, less invasive, treatment approaches instead of relying on psychotropic medication as the first-line or only treatment plan.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of specific technologies or equipment.